would be out of place for me here to dwell on his general ability. What I specially wish to remember about him is that unlike some who try to be the light of an assembly without working for it, he always laboured hard and made himself perfect in the subjects he had to deal with. This I have noticed throughout his whole career, and I can only take comfort in the hope that these excellences in his character will find new light in the successors whom the Government may appoint in his place.

Secretary.—I beg to announce that the Guardians and Wards Bill passed by the Council on the 15th March 1902 received the assent of His Highness the Maha Rajah on the 28th March 1902 and has become law as Regulation II of 1077, with effect from the 1st Chingom 1078.

LUNACY BILL.

Mr. Kunhiraman Nair.—I beg to move for permission to introduce a "Lunacy Bill", wherein are embodied provisions for the proper care of the person and estates of lunatics or insane persons and for the detention of certain classes of lunatics in Asylums established by Government. There is at present no legislative enactment or statutory provision governing these subjects in this State and it is high time to supply the omission in the interests of good and progressive administration. There is no denying that it is the bounden duty of the State to safe-guard the interests of incapable and helpless persons unable to manage their affairs, and the affording of such protection is the special prerogative of the Sovereign acting through constituted tribunals. There are Lunacy laws in every civilised State, in some form or other. A systematic control of the lunatics and their estates is exercised by every civilized State under legal process, and there are in England and in British India several statutes and Acts prescibing the procedure to be adopted in such cases. It goes without saying that no administration based upon constitutional principles can in these days, when education is spreading among the masses and people are beginning to have a real and better conception of their rights and wrongs, properly discharge its duty of protecting the interests of incapable persons without well-defined laws and rules. The days are past when the Government could exercise proper control over the person and estates of insane persons by mere executive orders, and the necessity of having a law like the one now proposed, for regulating the mode in which the State is to discharge its duty towards its helpless subjects, is self-evident. The scope and object of the several provisions of the proposed Bill will be explained hereafter on the occasion of the actual introduction of the Bill, but I may as well remark at present, that this State has already by passing the "Guardians and Wards Regulation" recognized the imperative necessity there is of enacting statutory provisions for the protection of incapable persons. The case of lunatics does not differ in principle from that of minors. Both have no intelligent will, one by reason of immature age and the other by reason of unsoundness of mind, and being thus incapable of voluntary action, could enter into no valid contracts and incur no responsibility by their own acts. The one is as much entitled to the special protection of the State as the other and it behoves the legislature to extend the same kind of protection to both as far as possible. The legislation affecting the person and property of incapables, commenced by the introduction of the "Guardians and Wards Bill", now passed into law, cannot be regarded as complete until adequate provisions for the care of the lunatics are also enacted.

The Bill I now seek permission to introduce has, I may say, been framed on the lines of the British Indian Acts XXXV and XXXVI of 1858 with such alterations and changes as the circumstances of the country necessitate; and the opinion expressed by the Council during the progress of the "Guardian and Wards Bill" as to the desirablity of legislating for lunatics also leads me to hope and trust that the introduction of the present measure wil be readily voted for.

Permission was granted accordingly.

HINDU RELIGIOUS ENDOWMENTS BILL.

Mr. Nagam Aiya.—In formally presenting to the Council the report of the Select Committee on the Hindu Religious Endowments Bill, I will, Sir, with your permission, offer a few remarks. As copies have not been placed in the hands of the

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Council members in time under section 46 of the Legislative Council Rules, I beg that the consideration of the same be deferred to the next meeting.

The Council will, in the first place, be gratified to note that the Select Committee are *unanimous* in the modifications adopted by them in the Bill and in the observations they have made in the report submitted. This is a particularly gratifying circumstance in so highly contentious a piece of legislation as the one I have had the honor to introduce, which in its earlier stages was much misunderstood and therefore naturally excited great attention and considerable opposition. For the Select Committee itself, I invited the co-operation of two of the ablest official members of the Council who represented the opposition views entertained on the question. The Council will therefore be pleased with the amended Bill as being the resultant of two conflicting sets of opinions in which the fullest consideration has been given to the views of those who from the beginning assumed a hostile attitude towards it. It is my painful duty to record here that the late Mr. Thanu Pillai M. A. F. M. U., whose valuable life has been cut short by untimely death, worked harmoniously with us in the Select Committee and showed himself anxious to participate in the successful issue of so important a piece of legislation, and his sweet behaviour on the last occasion we met to transact official business, will ever remain impressed on my memory. Mr. Sivasubramani Pillai B. A., whose acquaintance I made since the Bill was first moved in this Council and who was, as the Council is aware, one of its loyal supporters, was prevented by a long course of illness which ultimately ended in death from taking part in the deliberations of the Select Committee and I regret that the Council has thus lost the opportunity of benefitting by his independence, experience and sound judgment on public questions. There is consolation, however, in the fact that their places are filled by two old friends, one of whom I am glad to notice, has taken his seat for the first time to-day.

I shall briefly summarize here the gains and losses to the Bill which have accrued to it, as the result of our deliberations in the Select Committee. The chief object of the proposed legislation has been gained viz., that Government need not look on with folded hands at the deterioration and gradual extinction of the numerous Ooralar temples in the State owning enormous property, but that it may interfere in their management whenever necessity arises and improve them in the best interests of the trusts. In this view we have recast section 5, which the Council will remember was the central point of the Bill around which the discussions raged in our meeting of the 12th January 1901. The new section is numbered 4 in the revised Bill. Clause I of section 4 of the revised Bill deals with cases of Government *assuming* management of endowments, and Clause II, with cases of Government *superintending* managements of endowments. We have thus given to the religious endowments of Travancore the legislative protection which was intended.

We are of opinion that Government may, subject to the limitations provided in the section, *assume* management of endowments where the trustees or donors request Government to do so; where the trustees refuse to continue in the trusteeship or declare themselves incapable to manage the endowments; or where Government have the right to take part in the management by the appointment of certain officers or servants, or where Government have succeeded to the right of management, in part, by reason of escheat of trustees. In all other cases, we think Government should have the power to exercise such a *superintendence* in the management of institutions as to best fulfil the objects of the trust.

Section 5 of the revised Bill safeguards the interests of hereditary trustees by laying down that, where a hereditary trustee is removed, his place shall be filled by the appointment of another member of the same family, and in other cases the appointment shall be made in consonance with the scheme of management prevailing in the institution.

We are of opinion that no provision for the supervision, by Committees, of institutions assumed by Government is necessary, but that such institutions should be managed like other Government institutions, unless the founders have established any schemes or canons, in which case due regard should be had to such schemes or canons. But in the case of institutions which are not assumed but over which

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Government exercises superintendence, a Committee may be appointed to exercise effective supervision.

We have unanimously resolved to recommend to the Council to take out from the operation of the Bill, all purely *secular* charities. In the first place, we believe that such purely secular charitable endowments by Hindu donors are very rare, as 'charities' founded by Hindus are the offspring of a purely religious feeling and in the large majority of instances of charitable endowments in the country, the institution is generally combined with some religious purpose such as a 'Pooja' or 'Chirappu' or 'Jepam'; and all such will, according to the definition of Hindu Religious Endowments in section 3 (*b*), clearly fall within the purview of the Bill. In the case of Hindu charitable endowments, it is often difficult to distinguish those that are partly religious from those that are purely secular. We mean that only such charitable endowments as are *purely secular* should be taken out of the operation of this Bill; all other charitable endowments which have a religious basis or connection, be it ever so slight, are intended to be covered by it. Only charities of a purely secular nature wholly unconnected with any religious observance are meant to be excluded from the operation of the Bill. All such will be provided for in a separate Bill on the lines of the British Indian Act VI of 1890 along with the charities founded by other religionists, without reference to the creed of the donors or beneficiaries of the endowments. On looking over the said Act No. VI of 1890 known as the "Charitable Endowments Act", I find that it includes charitable endowments which are also *partly* religious, 'but does not include a purpose which relates exclusively to religious teaching or worship.'

We have also excluded from the operation of the Bill all religious endowments in the management of *single persons* or *single families* in virtue of hereditary succession, not only because there is no occasion for wrangling or jealousy or collusion in the management of such, as in cases of endowments managed by a plurality of trustees, but also because, in the case of such institutions, it is often difficult to decide whether the individuals or families are mere trustees or whether there is not in them a combination of trusteeship and ownership. This perhaps may not stand the test of a severe logical scrutiny as the mere difficulty of detecting in an endowment the trustees' title as distinguished from the owners' title can be no justification for handing over what is undoubtedly valuable *trust property* to the tender mercies of an impecunious heir of an affluent donor. But we have deemed it advisable to exclude these from the present Bill.

Section 4 is omitted. We have given effect to the opinion expressed by the Dewan-President and other valued correspondents that section 511 of the Civil Procedure Code should be retained and have accordingly inserted section 19 in the revised Bill.

Much stress was laid both in the discussions in the Council as well as in the papers submitted to the Council by the outside public that the want of facilities for the collection of rent-dues was the great stumbling block in the way of proper administration of these endowments, even more than the innate wickedness of the trustees themselves. This essential *instalment* of help to the honest trustees was provided for in section 15 of the draft Bill and the same facility is now continued in Section 14 of the amended Bill.

Other facilities to trustees for the better administration of trusts in their charge are afforded by the Bill as well as safe-guards to the public, laying down especially that no case of interference is contemplated except where the trustees have clearly failed in discharging their duties; these facilities and safe-guards have been all conceived in the sole *interest* of the beneficiaries of the several endowments concerned and will, we trust, be found effectual. For, Government, as I have already told you, "seeks no profit by the proposed legislation, the well-being and prosperity of the institutions are our only aim, and the satisfaction of the public our best reward. No radical changes are contemplated. No vested interests will be rudely disturbed. Dishonest managers will be watched and corrected. Honest trustees will be helped and encouraged. In every way, the intentions of the original donors will be followed and fulfilled." I beg the Council will remember also what I informed

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them on the 2nd June 1900, " that it is only an enabling measure that is attempted here, under which Government may act as necessity arises; let us hope that the necessity may never arise for Government interference under this law, that erring trustees will take the hint and administer the important and valuable endowments under their charge with an eye to their prosperity and the welfare of the beneficiaries under the trusts, that the honest and well-conducted trustees will see in this piece of legislation a recognition and a reward for their past meritorious services and a legislative commandment to their neighbours to follow their noble example and do likewise."

If I may avail myself, Sir, of this opportunity, I wish with your permission to offer a word of personal explanation to correct what appears to me to be an evident misapprehension in certain quarters regarding the language I used on a former occasion in answering some criticisms on the Bill. I beg to assure you and through you, Sir, the public at large, that in no remarks made by me at any of the several stages of discussion on this Bill, have I been actuated by any personal feelings of disrespect or disregard towards any of those with whom I have had to express differences of opinion, whatever might be the impression produced by the form in which those remarks had been clothed. The Council will have seen that this was a regular uphill work of fighting down powerful opposition in the cause of beneficent legislation, and if I have used language which I myself might have spared in dealing with questions of lesser importance, I beg to assure you that the successful piloting of the Bill in hand to a safe haven was the one engrossing idea uppermost in my mind and I should therefore regret if such innocent enthusiasm has unconsciously caused pain which was not intended.

With these remarks, I beg to present the Report of the Select Committee and move that the Report and the amended Bill be published in the Gazette and that the consideration of the Bill be taken up at the next meeting.

Seconded by Mr. Rajaram Row.

The motion was put and agreed to.

LEPERS BILL.

Mr. Kesava Pillay.—I beg to move that the Bill as amended be passed and that it come into force on the 1st Chingom 1078.

The motion was put and agreed to.

Mr. Rajaram Row.—I beg to propose that, in the place of the late Mr. Thanu Pillai, Mr. Nagam Aiya may be appointed a member of the Select Committee on the Weights and Measures Bill.

The motion was put and agreed to.

The Council adjourned at 3-20 P. M.

K. KRISHNASWAMY RAO,
President.

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